

**FINAL STATEMENT OF REASONS  
FOR  
PROPOSED BUILDING STANDARDS  
OF THE  
DIVISION OF THE STATE ARCHITECT – STRUCTURAL SAFETY (DSA-SS)  
REGARDING ADOPTION OF AMENDMENTS TO THE 2013 CALIFORNIA GREEN BUILDING  
STANDARDS CODE, CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 24, PART 11  
(DSA-SS EF-02-15)**

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a final statement of reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

**UPDATES TO THE INITIAL STATEMENT OF REASONS**

DSA-SS finds that revisions have been made which warrant changes to the initial statement of reasons for the following sections as proposed for public comment based on comments received:

- **SECTION 301.4 SCOPE [DSA-SS]:** DSA-SS added language to clarify the minimum rehabilitated landscape area requirement at existing school and community college sites.
- **SECTION 5.304.5 OUTDOOR WATER USE [DSA-SS]:** DSA in coordination with the California Building Standards Commission (CBSC) added proposed language to align the language with the requirements in the 2015 Model Water Efficiency Landscape Ordinance (MWELO) recently published by the Department of Water Resources (DWR).
- Upon further review of the Initial Statement of Reasons (ISOR), DSA is deleting and replacing the statements under the following subtitles because these topics regarding the cost impacts on the private sector are not applicable to the DSA:

**FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS.**

DSA's proposed regulations only apply to public schools and community colleges.

**ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION.**

DSA's proposed regulations only apply to public schools and community colleges.

**MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

Because the scoping requirements and outdoor water use regulations of the green building standards proposed contains mandatory measures, DSA has determined that the proposed regulatory action imposes a mandate on local agencies or school districts. However, the mandate does not require reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4, Government Code.

**OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S).**

**EMERGENCY RULEMAKING**

**COMMENTER:** Dan Troy, Vice Chancellor for Fiscal Policy for California Community Colleges.

**Regarding:** Cost implications of proposed regulations.

**Comment:** The costs of the proposed emergency regulation are yet unknown in relation to their implementation for the state and districts related to construction of capital outlay projects. Additionally, replacing landscape may not result in immediate water savings since new plantings require more water, which may bring districts into conflict with the average 25% reduction in potable water called for by the Governor's Executive Order B-29-15.

**Recommendation:** No recommendation provided.

**Response:** A detailed review was not able to be done by DSA, CBSC, nor the Department of Water Resources due to the urgency of meeting the drought response requirements set forth in the Executive Order B-29-15. Overlap with water purveyor goals is incorporated in this EO; however, the outdoor water regulations will serve to enhance water conservation efforts. The mandatory measures proposed are generally of modest cost, and the benefits derived in terms of water reduction and the well-being of building users should outweigh the costs.

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**COMMENTER:** Anna M. Ferrera, Executive Director of School Energy Coalition.

**Regarding:** Requirement for the minimum landscape area on an existing site which is equal to 75% of the new building or addition's building footprint.

**Comment:** The school district should be able to meet this requirement if new construction is built on an existing landscape because the building footprint would take out that amount of square footage of landscaping that might otherwise need water.

**Recommendation:** Add an exception that allows the minimum rehabilitated landscape area to be met by the building of the new construction on an existing irrigated landscape area.

**Response:** DSA proposed Section 301.4.1, Exception 3 during the 45-day comment period and will add the following exception: "The new building or addition to an existing building is be partially or entirely constructed on an existing irrigated landscape area equal to or greater than the minimum rehabilitated landscape area requirement of Section 301.4.1."

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**COMMENTER:** Anna M. Ferrera, Executive Director of School Energy Coalition.

**Regarding:** Outcome of water conservation due to these proposed regulations.

**Comment:** Costs of these regulations are unknown. The regulations will need to align with the updated MWEL. A detailed review of water conservation achieved by the school districts as a result of the Executive Order B-29-15 as it relates to the requirements by water purveyors to meet water saving goals and in relationship to the proposed outdoor water use regulations.

**Recommendation:** Provide information on the water conservation outcomes that districts have achieved in response to the Executive Order and in furtherance of individual water agency goals. Revise regulations to align with 2015 MWEL.

**Response:** DSA will propose during the 15-day comment period revisions to the code language to align with the 2015 MWEL. A detailed review was not able to be done by DSA, CBSC, nor the Department of Water Resources due to the urgency of meeting the drought response requirements set forth in the Executive Order (EO) B-29-15. Overlap with water purveyor goals is incorporated in this EO; however, the outdoor water regulations will serve to enhance water conservation efforts.

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**COMMENTER:** Rebekah Cearley, Legislative Advocate for the Community College Facility Coalition.

**Regarding:** Requirement for the minimum landscape area on an existing site which is equal to 75% of the new building or addition's building footprint.

**Comment:** Appreciates that DSA revised this original requirement of 100% of the building footprint to 75% of the footprint and DSA's recognition of the landscape area being displaced, and the outdoor water use that is ultimately reduced, by this new construction.

**Recommendation:** No recommendations.

**Response:** DSA proposed Section 301.4.1, Exception 3 during the 45-day comment period and added the following exception: "The new building or addition to an existing building is be partially or entirely constructed on an existing irrigated landscape area equal to or greater than the minimum rehabilitated landscape area requirement of Section 301.4.1."

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**COMMENTER:** Rebekah Cearley, Legislative Advocate for the Community College Facility Coalition.

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**Regarding:** Reviewing the cost implications of regulations and potential water savings before finalizing.

**Comments:** The regulations will need to align with the updated MWELO. Removing existing, established plants and replacing them with new plants in order to meet the MWELO may temporarily increase water use, as new plants require additional water until they are well established. DSA and the building Standards Commission (CBSC) should fully review the effects of the new regulations on potable water use, evaluating whether they are achieving the goals of the Executive Order B-29-15 to save potable water in the short-term.

**Recommendation:** Perform an in-depth cost-benefit analysis taking into account the associated and local costs for non-potable and potable water in relation to the potable water savings.

**Response:** DSA has proposed during the 45-day comment period revisions to the code language to align with the 2015 MWELO. A detailed review was not able to be done by DSA, CBSC, nor the Department of Water Resources due to the urgency of meeting the drought response requirements set forth in the Executive Order B-29-15. Overlap with water purveyor goals is incorporated in this EO; however, the outdoor water regulations will serve to enhance water conservation efforts.

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**COMMENTER:** Greg Dick, Construction and Demolition Materials Research/Green Building  
California Department of Resources Recycling and Recovery (CalRecycle)

**Regarding:** Installation, removal, or replacement of a sports field at a school site.

**Comment:** When a school opts to install, remove, or replace a sports field (either grass or synthetic), does DSA, or any other entity, have rules or standards that need to be met? It would not appear to fall under the Building Code or CALGreen, but is there another set of regulations that guide such activity, and who would be the enforcing agency?

**Recommendation:** None

**Response:** California Department of Education deals with outdoor activity curriculums.

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#### **45 DAY COMMENTS**

**COMMENTER:** Wesley Bexton, Landscape Architect/ Associate Principal of Carducci Associates.

**Regarding:** Exception 3 to Scope Section 301.4.1 proposed during the 45-day comment period. This exception reads that "The new building or addition to an existing building is be partially or entirely constructed on an existing irrigated landscape area equal to or greater than the minimum rehabilitated landscape area requirement of Section 301.4.1."

**Comment:** The above proposed revised text to CALGreen, Section 301.4.1, Exception 3, will irreparably harm the site's ability to process water into the water table and natural living soil profiles, and also is in conflict with the intentions stated in the MWELO which is looking at planting design from a watershed approach, providing better habitat, protecting native planting, and creating more permeable landscape site soils on a campus, and recharge water tables and store water in landscaped areas.

**Correspondence:** Clarified that the exception is for irrigated landscape area replacement only. Natural areas are not being considered for this exception. Wesley Bexton concurred that the exception as written with the distinction for existing irrigated landscape area would be adequate to avoid the issues related to water table levels. Then, he wrote back and recommended that we include turf lawn and that the area is not water efficient so that area removed is not a relatively water efficient landscapes. However, the intent of the exception is not to preserve relatively water efficient landscapes; the driving force behind this exception is the construction of a building or addition which would put an irrigated landscape out of service and thus, saving water (efficient or not).

**Recommendation:** Revise language proposed by the DSA in the 45-day comment period.

**Response:** DSA proposed Section 301.4.1, Exception 3 during the 45-day comment period and will add the following exception: "The new building or addition to an existing building is be partially or entirely constructed

on an existing irrigated landscape or turf lawn area not in compliance with the current MWELO requirements equal to or greater than the minimum rehabilitated landscape area requirement of Section 301.4.1.”

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**COMMENTER:** Joyce Dillard, Los Angeles, California

**Regarding:** Section 4-509 which refers to the MWELO

**Comment:** Notified DSA that stormwater collected (not graywater or rainwater harvesting from roofs) is regulated and permitted by local regional waterboards and that groundwater storage may conflict with Water Rights, especially in adjudicated groundwater basins. Additionally, they noted that Public Health issues including oversight by a Public Health Agency may be necessary to monitor and review high bacteria counts or vector control issues.

**Recommendation:** None.

**Response:** This comment was difficult to understand as it was referencing Part 1 and the administrative procedures for self-certification. However, DSA is interpreting the notification to be related to the MWELO since it is cited in Section 4-509 as the compliance standard. DSA has forwarded this comment on to the Department of Water Resources which is the agency responsible for developing the MWELO and can address this concern.

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**COMMENTER:** Dennis Corelis, Deputy State Architect, Division of the State Architect

**Regarding:** Update the emergency regulations to reflect the new 2015 version of the Model Water Efficient Landscape Ordinance (MWELO).

**Comment:** Various recommended or required edits to clarify and align the regulations with the 2015 MWELO and align the scoping section with the upcoming DSA procedures.

**Recommendation:** Revise language in the final express terms.

**Response:** All edits incorporated into the final express terms.

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## **15 DAY COMMENTS**

**COMMENTER:** David W. Briley, Blair, Church & Flynn Consulting Engineers, Clovis, California

**Regarding:** Section 301.4.1, Exception 1.

**Comment:** Suggested that the language in Section 301.4.1 and Section 301.4.1, Exception 1 is inconsistent.

**Recommendation:** Change the unit of floor area to footprint area for Section 301.4.1, Exception 1.

**Response:** The *floor* area is the unit used as the threshold for the requirement to rehabilitate a minimum landscape area on an existing site. However, the minimum rehabilitated landscape area calculation is based on the *footprint* area so that multi-story buildings are not required to rehabilitate excessive amounts of existing landscape areas. The difference in units is intentional. DSA does not consider this inconsistent because the floor area is the unit which identifies a building for code purposes.

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**COMMENTER:** Anna M. Ferrera, Executive Director of School Energy Coalition.

**Regarding:** Chapters 1, 2, 3 and 5 of the CALGreen Code, Part 11, Title 24

**Comment:** General overall support for the new outdoor water use regulations (Section 5.304.5) and scoping requirements for a minimum landscape area requirement (Section 301.4.1). Needs clarification on practical matters as it relates to: the cost of the provisions, change in thresholds made by DWR in the MWELO, and landscapes utilizing with recycled or recaptured water.

**Recommendation:** Specifically, would like a word change for Section 5.304.5.1 to be “New construction landscape projects” rather than “Newly constructed landscapes.”

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**Response:** No change to the language as DSA has been advised by the BSC that this would be considered a substantial change.

**DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS**

This is not applicable to the DSA because DSA's proposed regulations only apply to public schools and community colleges.

**REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES**

This is not applicable to the DSA because DSA's proposed regulations only apply to public schools and community colleges.